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Appeals Court Upholds Virginia Spy Convictions

From News Services

RICHMOND, Va. — A federal appeals court yesterday upheld the espionage convictions of a Vietnamese citizen and a federal government employee found guilty of transmitting government information to Communist Vietnam.

But the 4th U.S. Circuit Court of Appeals made its decision conditional on an order that U.S. District Judge Albert Bryan Jr. review in more depth documents submitted at the end of the espionage trial of David Truong and Ronald Humphrey. The trial was held in Alexandria.

"They (the materials) were not given the careful scrutiny the district court felt was necessary to make a confident decision," the appeals court said. "If the district court concludes that denial of it (the material) was not harmless error, it should vacate the judgments of conviction in order that the defendants may obtain a new trial."

The case began in 1976 when Truong, a Vietnamese citizen studying in the United States, asked Dung Krall, a Vietnamese-American and the wife of a U.S. naval officer, to carry packages of diplomatic cables and other classified papers to Vietnamese officials in Paris.

Truong obtained the documents from Ronald Humphrey, an employee of the U.S. Information Agency. Humphrey said his motive was to improve relations between the North Vietnamese government and the United States so that he could be reunited with a woman whom he loved who was a prisoner of the North Vietnamese government.

Unknown to Truong, Dung Krall was a confidential informant employed by the CIA and the FBI. She

kept both agencies informed of Truong's activities and presented the packages Truong gave her to intelligence officials, who inspected them and allowed them to be passed on to the Vietnamese.

In a 67-page opinion, the appeals court brushed aside arguments by Truong and Humphrey that their convictions should be overturned because they were based on searches and surveillance conducted by the CIA and the FBI without warrants.

The appeals court agreed with the lower court that warrants were unnecessary for most of the investigation conducted in 1976 and 1977 against the two men because the surveillance and searches had been authorized by the executive branch.

The appeals court wrote, "The needs of the executive are so compelling in the area of foreign intelligence, unlike the area of domestic security, that a uniform warrant requirement would unduly frustrate the president in carrying out his foreign affairs responsibilities."

Truong and Humphrey were arrested in January 1978. They were convicted by a federal trial jury in May 1978 on six counts of espionage, conspiracy, theft of government documents and failure to register as foreign agents and sentenced to 15 years each in prison.

Justice Department officials and defense attorneys both regarded the case as a significant test of the government's power to conduct electronic surveillance, which was authorized in the case by former Attorney General Griffin B. Bell.

The telephone in Truong's apartment was tapped and monitored for 268 days beginning May 11, 1977, according to his appeal.